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TAGS: PINR EFIN HU
SUBJECT: (U) HUNGARY: MONEY LAUNDERING LAWS (C-TN8-02815)

REF: A. SECSTATE 583
¶B. BUDAPEST 42

Classified By: P/E COUNSELOR ERIC V. GAUDIOSI; REASONS 1.4 (B) AND (D)

¶1. (U) On January 14, Econoff met with Ministry of Finance Department of Income Taxes Director General Edit Lucz on a number of issues, and inquired about the tax law change described ref A.

¶2. (U) The law in question was passed on December 1 as part of the 2008 tax law changes, and is known as Law 81 on Business and Dividend Taxes. The law is intended to help the struggling Hungarian government securities market, which in recent months has fallen victim to investor risk aversion and deleveraging by non-resident investors (ref b), by creating incentives to purchase government securities. It has already entered into force.

¶3. (U) The primary incentive under the law is that it provides a tax discount on dividends to investors who purchase Hungarian government securities during a certain period of time, as long as they hold them for at least two years.

¶4. (SBU) The other incentive relates to the treatment of the money used for the purchase of the government securities. Director General Lucz strongly disagreed with the characterization by the author of the HVG article that the law "would turn the state itself into a vehicle for money laundering." The article asserts that according to the law, the Hungarian tax authority "would not investigate, and nor would anybody initiate a criminal investigation" regarding these funds. According to DG Lucz, this statement is referring to provisions in the law that indicate that the tax authority will treat these funds as "money that has already been taxed" and that the "tax office cannot make further investigations or claims" regarding the taxability of the funds used for this investment. According to Lucz, it creates a "presumption of post-tax income."

¶5. (SBU) Lucz maintains that this does not mean Hungarian law enforcement authorities are prevented from initiating criminal investigations, and noted that there are several safeguards included in the law to ensure that it cannot be used as a vehicle for money laundering. She noted that the law explicitly proscribes the use of funds originating from criminal activity, and that no funds can be used that originate from Andorra, Monaco, or Liechtenstein, countries with whom Hungary has no information sharing arrangement. She pointed out that investors must sign a statement that they are complying with these requirements, and noted that these provisions are subject to investigation by Hungarian law enforcement authorities (including the tax office). She also noted that nothing in the law exempts financial service providers who handle these transactions from their STR filing requirements, nor is the Hungarian FIU prevented in any way from conducting its investigations.

6 (SBU) Although this law originated from the Parliament's economic committee and not the Finance Ministry, Lucz noted that it was reviewed by the Justice Ministry, and that they were satisfied it meets Hungary's OECD and EU obligations. Lucz also noted that this is a temporary measure that will only be in place for 2008-09.

¶7. (C) Comment. The promise not to investigate the taxability of funds reflects both lax bureaucratic process and hard economic times as the GoH attempts to stabilize the market for government securities (septel). Post does not believe, however, that the law automatically provides an avenue to legitimize illicit funds. The law does not preclude Hungarian authorities from investigating whether funds used were derived from criminal sources, it does not absolve financial intermediaries from their STR filing requirements, and it does not prevent the FIU from initiating investigations or criminal proceedings. Bad journalism has also played a part by mischaracterizing the law. That said, the press coverage does remind us of an important fact: having laws on the books is not enough - governments must be willing to enforce them. As Hungary continues to bring its anti-money laundering regime up to international standards, it becomes increasingly important to ensure that these laws are aggressively enforced. End comment.
Foley